



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2016--0443]**

**Hours of Service of Drivers: Dillon Transportation LLC; Application for Exemption**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of application for exemption; request for comments.

**SUMMARY:** FMCSA announces that it has received an application from Dillon Transportation LLC (Dillon) for an exemption from certain provisions of the Agency's hours-of-service (HOS) regulations. Dillon proposes that its team drivers be granted an exemption from the HOS rules pertaining to use of a sleeper berth (SB). Dillon proposes that its team drivers be allowed to take the equivalent of 10 consecutive hours off duty by splitting SB time into two periods totaling 10 hours, provided neither of the two periods is less than 3 hours. FMCSA requests public comment on Dillon's application for exemption.

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.]

**ADDRESSES:** You may submit comments identified by Federal Docket Management System Number FMCSA-2016-0443 by any of the following methods:

- Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). See the Public Participation and Request for Comments section below for further information.
- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

- Hand Delivery or Courier: West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- Fax: 1-202-493-2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to [www.regulations.gov](http://www.regulations.gov), including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to [www.regulations.gov](http://www.regulations.gov) at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

**FOR FURTHER INFORMATION CONTACT:** For information concerning this notice, please contact Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division; Telephone: (614) 942-6477; E-mail: [MCPSD@dot.gov](mailto:MCPSD@dot.gov). If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

## **SUPPLEMENTARY INFORMATION:**

### **I. Public Participation and Request for Comments**

FMCSA encourages you to participate by submitting comments and related materials.

#### Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2016-0443), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to [www.regulations.gov](http://www.regulations.gov) and put the docket number, “FMCSA-2016-0443” in the “Keyword” box, and click “Search.” When the new screen appears, click on “Comment Now!” button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may grant or not grant this application based on your comments.

### **II. Legal Basis**

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

### **III. Request for Exemption**

Dillon states that it operates a fleet of 103 vehicles with 50 team drivers. Dillon is a privately-owned and operated company that delivers products to 48 states from a diversified customer base, and is known for their high level of service as an on-time carrier. They recruit only experienced, professional drivers. Dillon operates on a routine weekly cycle; each workweek contains a regular subset of daily cycles dispatching and returning long, medium and short range trips. According to Dillon, the majority of the fleet drivers are home weekly with 34-48 hours off. The fact that some drivers stay out

longer is their choice to do so; Dillon does not require their drivers to stay on the road for more than 5 days.

Dillon's tractors are equipped with double-bunk sleepers in the event both drivers need or want to rest at the same time. Drivers are allowed to make their own decisions about when and where to take short rest breaks based on their personal needs and preferences in conformance with regulatory requirements. Dillon asserts that it takes safety, health and wellness seriously, and only hires well-qualified drivers who go through a comprehensive orientation /new-hire training program. Dillon's trucks are all equipped with electronic logging devices for monitoring hours-of-service (HOS) compliance.

Dillon requests an exemption from the current regulations for its operations to eliminate the requirement that SB time include a period of at least 8 but less than 10 consecutive hours in the SB and a separate period of at least 2 but less than 10 consecutive hours either in the SB or off duty, or any combination thereof (49 CFR 395.1(g)(1)(ii)(A)(1) and (2)). Dillon proposes that its team drivers be allowed to split SB time into two periods totaling at least 10 hours, provided neither of the two periods is less than 3 hours in length. The drivers would be able to choose between either a 3/7, 4/6, or 5/5 "split" hour break to complete the required 10 hour break. The exemption would be limited to drivers in team operations. The request by Dillon is for a 2-year exemption period.

Dillon states that it is common knowledge that sleeping in a moving vehicle is more difficult than for a single driver who is able to stop the truck during their sleeper time. According to Dillon, having the flexibility to switch with a partner allows each driver to take advantage of shorter driver periods when they feel fatigued even though

they have available driving time. This will result in a more flexible work pattern improving personal and vehicular safety. The exemption request would not apply to trips driven by a single driver.

Dillon identified some countermeasures it would take to maintain safe operations if the exemption is granted. The safeguards would include, but not be limited to:

- Drive time would be reduced from 11 hours to 10 hours. Team drivers would be limited to 10 hours of driving prior to completing their required 10 hours total SB. Solo drivers will continue to operate under current HOS regulations.
- Dillon trucks are equipped with Qualcomm communications and electronic logging. Their drivers will continue to utilize Qualcomm electronic communications and tracking to maintain HOS compliance.
- All of Dillon's tractors are equipped with speed limiters.

Dillon believes that by allowing its team drivers to exercise flexibility in their SB requirements, they will experience better quality rest as a result of this exemption. To support its request for the exemption, Dillon cited the results of a recent study conducted

by Gregory Belenky, MD at the Sleep and Performance Research Center, which concluded that when consolidated nighttime sleep is not possible, split sleeper berth time is preferable to consolidated daytime sleep ([www.fmcsa.dot.gov/facts-research/briefs/12-003-Split-Sleep](http://www.fmcsa.dot.gov/facts-research/briefs/12-003-Split-Sleep)).

A copy of Dillon's application for exemption is available for review in the docket for this notice.

Issued on: December 29, 2016

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Larry W. Minor  
Associate Administrator for Policy

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